

## Workmen's Compensation Act - Death by Suicide - When Compensable

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**Workman's Compensation Act—Death By Suicide—When Compensable.**—Plaintiff was the widow of John H. Jung, who was accidentally injured on October 25, 1939, under such circumstances as to entitle him to the benefits of the Wisconsin Workman's Compensation Law.<sup>1</sup> Such benefits were paid to John H. Jung during his lifetime and until October 7, 1940, when he died, his death resulting from injuries which he received when he threw himself from a window in the hospital. The Commission found:

"... that decedent was capable of appreciating the consequences of his act, but was incapable of resisting the emotional impetus toward suicide resulting from the mental condition caused by his injury; they further found that the decedent's suicide was intentionally self-inflicted and that his act was an intervening cause for death and that the suicide and death did not proximately result because of his injury,"

and denied compensation. Upon appeal the decision of the Commission was affirmed. *Jung v. Industrial Commission*, 242 Wis. 179, 7 N.W. 2d 416.

As pointed out by the court this case is not distinguishable from the case of *Barber v. Industrial Commission*,<sup>2</sup> in which it was held that death by suicide is generally uncompensable because Sec. 102.03, Wisconsin Statutes, bars compensation for intentionally self-inflicted injuries. Death by suicide generally constitutes an intentionally self-inflicted injury,<sup>3</sup> and where the mental ailment of the person ending his life has not progressed to the stage of destroying the capacity to entertain an intention, the statute plainly excludes compensation for the injury. *Vennen v. Dells Lumber Co.*<sup>4</sup> and *Simmons Co. v. Industrial Comm.*,<sup>5</sup> are to the effect that if the decedent did not act upon uncontrollable impulse or in a delirium of frenzy but with conscious volition, recovery is precluded because of the exclusion of Sec. 102.03 of the Wisconsin Statutes.

In *Corpus Juris* the statement on suicide under Workman's Compensation is as follows:

"Provided the insanity results from a compensable accident and not from brooding over the injury or causes, the suicide of an employee while insane may entitle his dependents to compensation therefrom; thus, where there follows as a direct result of the accident an insanity

<sup>1</sup> Chap. 102, WISCONSIN STATUTES.

<sup>2</sup> 241 Wis. 462, 6 N.W. 2d 199 (1942).

<sup>3</sup> *Peterson v. Time Indemnity Co.*, 152 Wis. 562, 140 N.W. 286 (1913); *Ladwig v. National Guardian Life Ins. Co.*, 211 Wis. 56, 247 N.W. 312 (1933).

<sup>4</sup> 161 Wis. 370, 154 N.W. 640 (1915), L.R.A. 1916 A, 273, Ann. Case 1918, B 293.

<sup>5</sup> 211 Wis. 445, 248 N.W. 443 (1933).

of such violence as to cause the victim to take his own life through an uncontrollable impulse or in a delirium of frenzy without conscious volition to produce death, there is a direct and unbroken causal connection between the physical injury and the death; however, where the suicide is the result of the voluntary and wilful choice determined by a moderately intelligent mental power with knowledge of the purpose and effect of the act, even though dominated by a disordered mind, a new and independent agency breaks the causation."<sup>8</sup>

The second basis for the decision in the Jung case, *supra*, is that the act of suicide resulting from a moderately intelligent power of choice is an intervening cause which precludes compensation. This follows the rule laid down in *Daniels v. New York, New Haven & Hartford Railroad Co.*<sup>7</sup> in which the court said:

"Where there follows, as the direct result of a physical injury, an insanity of such violence as to cause the victim to take his own life through an uncontrollable impulse, or in a delirium of frenzy, without conscious volition to produce death, having knowledge of the physical consequences of the act; then there is a direct and unbroken causal connection between the physical injury and the death. But where the resulting insanity is such as to cause suicide through a voluntary willful choice, determined by a moderately intelligent mental power which knows the purpose and the physical effect of the suicidal act, even though choice is dominated and ruled by a disordered mind, then there is a new and independent agency which breaks the chain of causation arising from the injury."

Other jurisdictions have followed the same ruling. Among these are Pennsylvania,<sup>8</sup> Massachusetts,<sup>9</sup> Vermont,<sup>10</sup> and Texas.

Recovery was allowed in the case of *Jones v. Trades and General Ins. Co.*<sup>11</sup> In this case the deceased injured his foot and bloodpoisoning set in and the deceased took poison which caused his death. The court said:

"The act of the deceased in drinking the poisonous solution was done designedly, but that by reason of the disturbed condition of his mind, resulting from the pain he was suffering from injury and the infection therefrom, he was incapable of appreciating the consequences of the act, which therefore was not willful and intentional, within the legal concept of those terms."

<sup>8</sup> CORPUS JURIS 71, Sec. 392.

<sup>7</sup> 183 Mass. 393, 67 N.E. 424. (1903).

<sup>8</sup> *Lupfer v. Baldwin Locomotive Works*, 269 Penn. 275, 112 Atl. 458 (1921).

<sup>9</sup> *Tetrault's Case*, 278 Mass. 447, 180 N.E. 231 (1932).

*In re Sponatski*, 220 Mass. 526, 108 N.E. 466 (1915).

<sup>10</sup> *McKane v. Capital Hill Quarry Co.*, 100 Vermont 45, 134 Atl. 640 (1926).

<sup>11</sup> *Tex. Civ. Appeals*, 144 S.W. 2d 689 (1940).

From the foregoing it would seem that the controlling element in determining whether or not death by suicide is compensable under the Workman's Compensation Act is the state of mind at the time of the suicide. If deceased commits the act realizing the consequences of it, there can be no recovery, but if he acts in a delirium or frenzy, making him incapable of appreciating the consequences of his act, recovery will be allowed.

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